

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1393**

**Introduced by Assembly Member Bates**

February 21, 2003

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An act to amend Sections 4646.5 and 4648 of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1393, as amended, Bates. Developmental services: regional centers: vendorization.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. Under existing law, the regional centers purchase needed services for individuals with developmental disabilities through approved service providers or arrange for their provision through other publicly funded agencies. Existing law provides for a vendorization or contracting process, by which regional centers identify, select, and utilize service vendors. Existing law requires the Director of Developmental Services to adopt regulations governing the vendorization process.

This bill would declare the intent of the Legislature to revise the vendorization process in order to ~~provide greater flexibility in vendorizing service and support providers~~ *give support to regional centers that meet local needs and offer high-quality services and*

*supports.* The bill would require the director to adopt regulations specifying the process to be used in determining the need for services and supports within a regional center area, would require the regulations to address special factors, and would require the purchase of services and supports by a regional center to be consistent with these factors.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares that the  
2 current process by which regional centers vendorize  
3 community-based service providers is ~~unnecessarily~~ burdensome  
4 for both the regional center and for providers, that it has not ~~had~~  
5 ~~the effect of increasing~~ *increased* the range of services and  
6 supports ~~necessary to afford to provide~~ consumers and families a  
7 meaningful choice in service providers, that it has resulted in an  
8 overabundance of some types of services and supports, and that it  
9 has not enhanced the quality of existing services and supports.

10 (b) It is therefore the intent of the Legislature to revise the law  
11 and regulations relating to the vendorization process to give  
12 ~~support to regional centers, in partnership with their communities,~~  
13 ~~greater flexibility in vendorizing service and support providers~~  
14 ~~that meet regional centers that meet~~ local needs and offer  
15 high-quality services and supports.

16 SEC. 2. Section 4646.5 of the Welfare and Institutions Code  
17 is amended to read:

18 4646.5. (a) The planning process for the individual program  
19 plan described in Section 4646 shall include all of the following:

20 (1) Gathering information and conducting assessments to  
21 determine the life goals, capabilities and strengths, preferences,  
22 barriers, and concerns or problems of the person with  
23 developmental disabilities. For children with developmental  
24 disabilities, this process should include a review of the strengths,  
25 preferences, and needs of the child and the family unit as a whole.  
26 Assessments shall be conducted by qualified individuals and  
27 performed in natural environments whenever possible.  
28 Information shall be taken from the consumer, his or her parents  
29 and other family members, his or her friends, advocates, providers

1 of services and supports, and other agencies. The assessment  
2 process shall reflect awareness of, and sensitivity to, the lifestyle  
3 and cultural background of the consumer and the family.

4 (2) A statement of goals, based on the needs, preferences, and  
5 life choices of the individual with developmental disabilities, and  
6 a statement of specific, time-limited objectives for implementing  
7 the person's goals and addressing his or her needs. These  
8 objectives shall be stated in terms that allow measurement of  
9 progress or monitoring of service delivery. These goals and  
10 objectives should maximize opportunities for the consumer to  
11 develop relationships, be part of community life in the areas of  
12 community participation, housing, work, school, and leisure,  
13 increase control over his or her life, acquire increasingly positive  
14 roles in community life, and develop competencies to help  
15 accomplish these goals.

16 (3) When developing individual program plans for children,  
17 regional centers shall be guided by the principles, process, and  
18 services and support parameters set forth in Section 4685.

19 (4) A schedule of the type and amount of services and supports  
20 to be purchased by the regional center or obtained from generic  
21 agencies or other resources in order to achieve the individual  
22 program plan goals and objectives, and identification of the  
23 provider or providers of service responsible for attaining each  
24 objective, including, but not limited to, vendors, contracted  
25 providers, generic service agencies, and natural supports. The  
26 purchase of services and supports shall be consistent with the  
27 factors identified in subparagraph (D) of paragraph (3) of  
28 subdivision (a) of Section 4648. The plan shall specify the  
29 approximate scheduled start date for services and supports and  
30 shall contain timelines for actions necessary to begin services and  
31 supports, including generic services.

32 (5) When agreed to by the consumer, the parents or legally  
33 appointed guardian of a minor consumer, or the legally appointed  
34 conservator of an adult consumer or the authorized representative,  
35 including those appointed pursuant to Section 4590 and  
36 subdivision (e) of Section 4705, a review of the general health  
37 status of the adult or child including a medical, dental, and mental  
38 health needs shall be conducted. This review shall include a  
39 discussion of current medications, any observed side effects, and  
40 the date of last review of the medication. Service providers shall

1 cooperate with the planning team to provide any information  
2 necessary to complete the health status review. If any concerns are  
3 noted during the review, referrals shall be made to regional center  
4 clinicians or to the consumer's physician, as appropriate.  
5 Documentation of health status and referrals shall be made in the  
6 consumer's record by the service coordinator.

7 (6) A schedule of regular periodic review and reevaluation to  
8 ascertain that planned services have been provided, that objectives  
9 have been fulfilled within the times specified, and that consumers  
10 and families are satisfied with the individual program plan and its  
11 implementation.

12 (b) For all active cases, individual program plans shall be  
13 reviewed and modified by the planning team, through the process  
14 described in Section 4646, as necessary, in response to the person's  
15 achievement or changing needs, and no less often than once every  
16 three years. If the consumer or, where appropriate, the consumer's  
17 parents, legal guardian, or conservator requests an individual  
18 program plan review, the individual program shall be reviewed  
19 within 30 days after the request is submitted.

20 (c) (1) The department, with the participation of  
21 representatives of a statewide consumer organization, the  
22 Association of Regional Center Agencies, an organized labor  
23 organization representing service coordination staff, and the  
24 Organization of Area Boards shall prepare training material and a  
25 standard format and instructions for the preparation of individual  
26 program plans, which embodies an approach centered on the  
27 person and family.

28 (2) Each regional center shall use the training materials and  
29 format prepared by the department pursuant to paragraph (1).

30 (3) The department shall biennially review a random sample of  
31 individual program plans at each regional center to assure that  
32 these plans are being developed and modified in compliance with  
33 Section 4646 and this section.

34 SEC. 3. Section 4648 of the Welfare and Institutions Code is  
35 amended to read:

36 4648. In order to achieve the stated objectives of a consumer's  
37 individual program plan, the regional center shall conduct  
38 activities, including, but not limited to, all of the following:

39 (a) Securing needed services and supports.



1 (1) It is the intent of the Legislature that services and supports  
2 assist individuals with developmental disabilities in achieving the  
3 greatest self-sufficiency possible and in exercising personal  
4 choices. The regional center shall secure services and supports that  
5 meet the needs of the consumer, as determined in the consumer's  
6 individual program plan, and within the context of the individual  
7 program plan, the planning team shall give highest preference to  
8 those services and supports which would allow minors with  
9 developmental disabilities to live with their families, adult persons  
10 with developmental disabilities to live as independently as  
11 possible in the community, and that allow all consumers to interact  
12 with persons without disabilities in positive, meaningful ways.

13 (2) In implementing individual program plans, regional  
14 centers, through the planning team, shall first consider services  
15 and supports in natural community, home, work, and recreational  
16 settings. Services and supports shall be flexible and individually  
17 tailored to the consumer and, where appropriate, his or her family.

18 (3) A regional center may, pursuant to vendorization or a  
19 contract, purchase services or supports for a consumer from any  
20 individual or agency ~~which~~ that the regional center and consumer  
21 or, where appropriate, his or her parents, legal guardian, or  
22 conservator, or authorized representatives, determines will best  
23 accomplish all or any part of that consumer's program plan.

24 (A) Vendorization or contracting is the process for  
25 identification, selection, and utilization of service vendors or  
26 contractors, based on the qualifications and other requirements  
27 necessary in order to provide the service.

28 (B) A regional center may reimburse an individual or agency  
29 for services or supports provided to a regional center consumer if  
30 the individual or agency has a rate of payment for vendored or  
31 contracted services established by the department, pursuant to this  
32 division, and is providing services pursuant to an emergency  
33 vendorization or has completed the vendorization procedures or  
34 has entered into a contract with the regional center and continues  
35 to comply with the vendorization or contracting requirements. The  
36 director shall adopt regulations governing the vendorization  
37 process to be utilized by the department, regional centers, vendors  
38 and the individual or agency requesting vendorization.

39 (C) Regulations shall include, but not be limited to: the vendor  
40 application process, and the basis for accepting or denying an

1 application; the qualification and requirements for each category  
2 of services that may be provided to a regional center consumer  
3 through a vendor; requirements for emergency vendorization;  
4 procedures for termination of vendorization; the procedure for an  
5 individual or an agency to appeal any vendorization decision made  
6 by the department or regional center.

7 (D) In order to ensure uniformity in the application of the  
8 vendorization process, the director shall adopt regulations setting  
9 forth the process to be used in determining the need for services  
10 and supports within a regional center area. The regulations shall  
11 address the following:

12 (i) The prospective vendor's potential for providing  
13 cost-effective quality services and supports as referenced in the  
14 program design.

15 (ii) The degree to which consumer choice regarding the  
16 provision of services and supports is identified as a factor in the  
17 program design.

18 (iii) The experience of the vendor or vendor's key personnel in  
19 providing the same or comparable services.

20 (iv) The reasonableness of the prospective vendor overhead.

21 (v) The capability of the regional center to monitor and  
22 evaluate the prospective vendor.

23 (vi) The need for the service.

24 (vii) Provision of a financial statement and budget that  
25 demonstrate the vendor's ability to cover operating costs and  
26 provide the necessary level of services and supports to regional  
27 center consumers.

28 (E) A regional center may vendorize a licensed facility for  
29 exclusive services to persons with developmental disabilities at a  
30 capacity equal to or less than the facility's licensed capacity. A  
31 facility already licensed on January 1, 1999, shall continue to be  
32 vendorized at their full licensed capacity until the facility agrees  
33 to vendorization at a reduced capacity.

34 (4) Notwithstanding subparagraph (B), a regional center may  
35 contract or issue a voucher for services and supports provided to  
36 a consumer or family at a cost not to exceed the maximum rate of  
37 payment for that service or support established by the department.  
38 If a rate has not been established by the department, the regional  
39 center may, for an interim period, contract for a specified service  
40 or support with, and establish a rate of payment for, any provider

1 of the service or support necessary to implement a consumer's  
2 individual program plan. Contracts may be negotiated for a period  
3 of up to three years, with annual review and subject to the  
4 availability of funds.

5 (5) In order to ensure the maximum flexibility and availability  
6 of appropriate services and supports for persons with  
7 developmental disabilities, the department shall establish and  
8 maintain an equitable system of payment to providers of services  
9 and supports identified as necessary to the implementation of a  
10 ~~consumers'~~ *consumer's* individual program plan. The system of  
11 payment shall include provision for a rate to ensure that the  
12 provider can meet the special needs of consumers and provide  
13 quality services and supports in the least restrictive setting as  
14 required by law.

15 (6) The regional center and the consumer, or where  
16 appropriate, his or her parents, legal guardian, conservator, or  
17 authorized representative, including those appointed pursuant to  
18 Section 4590 or subdivision (e) of Section 4705, shall, pursuant to  
19 the individual program plan, consider all of the following when  
20 selecting a provider of consumer services and supports:

21 (A) A provider's ability to deliver quality services or supports  
22 which can accomplish all or part of the consumer's individual  
23 program plan.

24 (B) A provider's success in achieving the objectives set forth  
25 in the individual program plan.

26 (C) Where appropriate, the existence of licensing,  
27 accreditation, or professional certification.

28 (D) The cost of providing services or supports of comparable  
29 quality by different providers, if available.

30 (E) The consumer's or, where appropriate, the parents, legal  
31 guardian, or conservator of a consumer's choice of providers.

32 (7) No service or support provided by any agency or individual  
33 shall be continued unless the consumer or, where appropriate, his  
34 or her parents, legal guardian, or conservator, or authorized  
35 representative, including those appointed pursuant to Section  
36 4590 or subdivision (e) of Section 4705, is satisfied and the  
37 regional center and the consumer or, when appropriate, the  
38 person's parents or legal guardian or conservator agree that  
39 planned services and supports have been provided, and reasonable  
40 progress toward objectives have been made.



1 (8) Regional center funds shall not be used to supplant the  
2 budget of any agency that has a legal responsibility to serve all  
3 members of the general public and is receiving public funds for  
4 providing those services.

5 (9) (A) A regional center may, directly or through an agency  
6 acting on behalf of the center, provide placement in, purchase of,  
7 or follow-along services to persons with developmental  
8 disabilities in, appropriate community living arrangements,  
9 including, but not limited to, support ~~service~~ *services* for  
10 consumers in homes they own or lease, foster family placements,  
11 health care facilities, and licensed community care facilities. In  
12 considering appropriate placement alternatives for children with  
13 developmental disabilities, approval by the child's parent or *legal*  
14 guardian shall be obtained before placement is made.

15 (B) Each person with developmental disabilities placed by the  
16 regional center in a community living arrangement shall have the  
17 rights specified in this division. These rights shall be brought to the  
18 person's attention by any means necessary to reasonably  
19 communicate these rights to each resident, provided that, at a  
20 minimum, the Director of Developmental Services *shall* prepare,  
21 provide, and require to be clearly posted in all residential facilities  
22 and day programs a poster using simplified language and pictures  
23 that is designed to be more understandable by persons with  
24 cognitive disabilities and that the rights information shall also be  
25 available through the regional center to each residential facility  
26 and day program in alternative formats, including, but not limited  
27 to, other languages, braille, and audiotapes, when necessary to  
28 meet the communication needs of consumers.

29 (C) Consumers are eligible to receive supplemental services  
30 including, but not limited to, additional staffing, pursuant to the  
31 process described in subdivision (d) of Section 4646. Necessary  
32 additional staffing that is not specifically included in the rates paid  
33 to the service provider may be purchased by the regional center if  
34 the additional staff are in excess of the ~~amount~~ *number* required by  
35 regulation and the individual's planning team determines the  
36 additional services are consistent with the provisions of the  
37 individual program plan. Additional staff should be periodically  
38 reviewed by the planning team for consistency with the individual  
39 program plan objectives in order to determine if continued use of  
40 the additional staff is necessary and appropriate and if the service



1 is producing outcomes consistent with the individual program  
2 plan. Regional centers shall monitor programs to ensure that the  
3 additional staff is being provided and utilized appropriately.

4 (10) Emergency and crisis intervention services, including, but  
5 not limited to, mental health services and behavior modification  
6 services, may be provided, as needed, to maintain persons with  
7 developmental disabilities in the living arrangement of their own  
8 choice. Crisis services shall first be provided without disrupting a  
9 person's living arrangement. If crisis intervention services are  
10 unsuccessful, emergency housing shall be available in the person's  
11 home community. If dislocation cannot be avoided, every effort  
12 shall be made to return the person to his or her living arrangement  
13 of choice, with all necessary supports, as soon as possible.

14 (11) Among other service and support options, planning teams  
15 shall consider the use of paid roommates or neighbors, personal  
16 assistance, technical and financial assistance, and all other service  
17 and support options which would result in greater self-sufficiency  
18 for the consumer and cost-effectiveness to the state.

19 (12) When facilitation as specified in an individual program  
20 plan requires the services of an individual, the facilitator shall be  
21 of the consumer's choosing.

22 (13) The community support may be provided to assist  
23 individuals with developmental disabilities to fully participate in  
24 community and civic life, including, but not limited to, programs,  
25 services, work opportunities, business, and activities available to  
26 persons without disabilities. This facilitation shall include, but not  
27 be limited to, any of the following:

28 (A) Outreach and education to programs and services within  
29 the community.

30 (B) Direct support to individuals that would enable them to  
31 more fully participate in their community.

32 (C) Developing unpaid natural supports when possible.

33 (14) Other services and supports may be provided as set forth  
34 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

35 (b) (1) Advocacy for, and protection of, the civil, legal, and  
36 service rights of persons with developmental disabilities as  
37 established in this division.

38 (2) Whenever the advocacy efforts of a regional center to  
39 secure or protect the civil, legal, or service rights of any of its  
40 consumers prove ineffective, the regional center or the person with

1 developmental disabilities or his or her parents, legal guardian, or  
2 other representative may request the area board to initiate action  
3 under the provisions defining area board advocacy functions  
4 established in this division.

5 (c) The regional center may assist consumers and families  
6 directly, or through a provider, in identifying and building circles  
7 of support within the community.

8 (d) In order to increase the quality of community services and  
9 protect consumers, the regional center shall, when appropriate,  
10 take either of the following actions:

11 (1) Identify services and supports that are ineffective or of poor  
12 quality and provide or secure consultation, training, or technical  
13 assistance services for any agency or individual provider to assist  
14 that agency or individual provider in upgrading the quality of  
15 services or supports.

16 (2) Identify providers of services or supports that may not be  
17 in compliance with local, state, and federal statutes and regulations  
18 and notify the appropriate licensing or regulatory authority, or  
19 request the area board to investigate the possible noncompliance.

20 (e) When necessary to expand the availability of needed  
21 services of good quality, a regional center may take actions that  
22 include, but are not limited to, the following:

23 (1) Soliciting an individual or agency by requests for proposals  
24 or other means, to provide needed services or supports not  
25 presently available.

26 (2) Requesting funds from the Program Development Fund,  
27 pursuant to Section 4677, or community placement plan funds  
28 designated from that fund, to reimburse the startup costs needed  
29 to initiate a new program of services and supports.

30 (3) Using creative and innovative service delivery models,  
31 including, but not limited to, natural supports.

32 (f) Except in emergency situations, a regional center shall not  
33 provide direct treatment and therapeutic services, but shall utilize  
34 appropriate public and private community agencies and service  
35 providers to obtain those services for its consumers.

36 (g) Where there are identified gaps in the system of services  
37 and supports or where there are identified consumers for whom no  
38 provider will provide services and supports contained in his or her



- 1 individual program plan, the department may provide the services
- 2 and supports directly.

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